

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

VOX FUNDING LLC,

PLAINTIFF,

v.

Case No. _____

THE BENNETT LAW GROUP LLC and MERIT BENNETT,

DEFENDANTS;

**NOTICE OF REMOVAL TO THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF NEW YORK**

COME NOW Defendants, The Bennett Law Group LLC and Merit Bennett (hereinafter “Defendants”), *pro se*, and hereby provide notice of removal of this matter to the United States District Court for the Eastern District of New York, as follows:

1. Pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, Defendants hereby give notice of removal of all counts and claims asserted by the Plaintiff in the civil action filed in the Supreme Court of the State of New York, Kings County, styled: Vox Funding LLC v. The Bennett Law Group LLC and Merit Bennett; Index No. 511868/2024 (the “State Court Action”). Pursuant to 28 U.S.C. § 1446(a), copies of all process, pleadings and orders available to Defendants The Bennett Law Group LLC and Merit Bennett to date are attached hereto as **Exhibit A** (copy of the below-defined Complaint).

2. Plaintiff’s original filing (hereinafter the “Complaint”) was filed in the Supreme Court of the State of New York, Kings County, on April 26, 2024. *See* **Exhibit A**.

3. Plaintiff initially falsely asserted via Affidavit of Service filed on May 3, 2024, that service was appropriately achieved by Plaintiff via U.S. Postal Service on April 29, 2024, which it was not. Subsequently, on May 20, 2024, Plaintiff filed an Affidavit of Service asserting that

service was actually appropriately achieved by Plaintiff via a process server to a “suitable person” on May 14, 2024. Therefore, this notice of removal is believed to be properly filed within the statutory deadline.

4. Defendants state that this is an action of a civil nature in which the United States District Court has diversity jurisdiction pursuant to 28 U.S.C. § 1332(a), because there is a complete diversity of citizenship between Plaintiff and all of the named Defendants.

5. The Complaint asserts that the Complaint Plaintiff is a limited liability company organized and existing under the laws of the State of Delaware and with offices at 100 Park Avenue 26th Floor, New York, New York 10017. *See Exhibit A*, Complaint, ¶1.

6. Upon all currently known information and belief, Plaintiff Member Mr. Adam Benowitz is the CEO of Complaint Plaintiff LLC and Plaintiff Member Mr. Louis Calderone is the President & Founder of Complaint Plaintiff LLC. Upon all currently known information and belief, both Mr. Benowitz and Mr. Calderone are believed to be residents of the State of New York. Any further information that may be needed would be obtained via the discovery process. *See* selected available online business profiles for Vox Funding LLC attached hereto as **Exhibit B**.

7. The Complaint falsely asserts that the Defendant The Bennett Law Group LLC is an entity organized under the law of the United States and authorized to do business in the State of New York. *See Exhibit A*, Complaint. *See also* Affidavit of Merit Bennett attached hereto as **Exhibit C**.

8. Defendants Merit Bennett and The Bennett Law Group LLC are actively, and have been since well before the subject transaction which gives rise to the Plaintiff’s Complaint, citizens of the State of New Mexico and have never been based nor doing business in New York. Therefore,

pursuant to 28 U.S.C. §§1332, 1441 and 1446, Defendants Merit Bennett and The Bennett Law Group LLC hereby give notice of removal to federal district court in New York of all counts and claims asserted by the Plaintiff in the civil action filed in the Supreme Court of the State of New York, Kings County, referenced fully above.

9. Defendant The Bennett Law Group LLC is incorporated in New Mexico and has its principal place of business in Santa Fe County in the State of New Mexico. *See* Articles of Incorporation and New Mexico Secretary of State Corporations and Business Services information attached as **Exhibit D**. Neither Defendant The Bennett Law Group LLC nor Defendant Merit Bennet reside in nor do business in the State of New York.

10. Defendant Merit Bennett is the sole member and owner of The Bennett Law Group, LLC, and has been a resident of the State of New Mexico and doing business in New Mexico since 1986. *See* The Bennett Law Group LLC New Mexico Operating Agreement and Defendant Merit Bennett's New Mexico driver's license attached collectively as **Exhibit E**.

11. Because of the clear diversity of citizenship that exists, Defendants are hereby seeking removal of this matter to the United States District Court for the Eastern District of New York.

12. Further, this case involves a contractual dispute between Plaintiff and Defendants where Plaintiff seeks judgment against Defendants in the sum of \$76,488.75 (balance of \$67,762.50, the Default Fee of \$6,776.25, the Blocking Fee of \$1,000.00, the UCC fee of \$150.00 and the Returned Item fee of \$800.00), plus interest from December 14, 2023, costs and attorney's fees, the total of which exceeds \$75,000.00, causing this Court to have jurisdiction pursuant to 28 U.S.C. § 1332(a). Furthermore, all related documents were executed by Defendant Bennett in New Mexico.

13. Without admitting any of the foregoing allegations, Plaintiff alleges Defendants breached the contract between the parties.

14. The United States Supreme Court has clarified that “as specified in § 1446(a), **a defendant’s notice of removal need include only a plausible allegation that the amount in controversy exceeds the jurisdictional threshold.** Evidence establishing the amount is required by §1446(c)(2)(B) only when the plaintiff contests, or the court questions, the defendant’s allegation.” *Dart Cherokee Basin Operating Co., LLC v. Owens*, 135 S. Ct. 547, 554 (2014). Emphasis supplied.

15. Notice of Removal was initially erroneously filed by Defendants with the United States District Court for the Western District of New York (Case 6 24-cv-06316-EAW) on May 20, 2024.

16. An Order to Show Cause was issued by District Court Judge Elizabeth A. Wolford identifying Defendants’ procedural error and initial pleadings deficiencies on May 30, 2024, ordering cause be shown for removal by no later than June 14, 2024. Defendants hereby file this modified notice with the United States District Court for the Eastern District of New York and hereby cure said previously identified deficiencies.

17. Notice is hereby being provided to Plaintiff of the filing of this Notice as is required by 28 U.S.C. § 1446(d).

18. A copy of this Notice will be filed with the Clerk for the Supreme Court of the State of New York, Kings County, as is required under 28 U.S.C. § 1446(d).

19. When this Court grants removal, then, pursuant to FRCP Rule 38, the Defendants hereby demand a trial by jury of all triable issues.

WHEREFORE, the Defendants respectfully request that this action be removed from the Kings County Supreme Court to this Court for all further proceedings.

THE BENNETT LAW GROUP LLC and
MERIT BENNETT, *PRO SE*

By: 

Merit Bennett, *Pro Se*
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CERTIFICATE OF SERVICE

I hereby certify that on this 6th day of June 2024, a true copy of the foregoing pleading was filed and served via Federal Express mail as follows:

United States District Court Eastern District of New York
Attention: Pro Se Office
225 Cadman Plaza East
Brooklyn, New York 11201

and

Derek Medolla, Esq.
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Attorney for Plaintiff

/s/ Merit Bennett
Merit Bennett, *Esq.*
Pro Se